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MONTANA LEGISLATIVE HISTORY

Chapter 122 ~~19~~ 2001

Bill H _____ S 205 Original bill & history ✓ C

H. Committee on State Administration

Hearing Date(s) 3-1 ✓ C

3-7 ✓ C

_____ C

_____ C

Date Out _____ C

S. Committee on State Administration

Hearing Date(s) 1-17 ✓ C

1-19 ✓ C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 1, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 184, SB 185, SB 205,
2/22/2001
Executive Action: HB 122

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/23/2001			
(S) Signed by Governor	03/22/2001			
(S) Transmitted to Governor	03/16/2001			
(H) Signed by Speaker	03/14/2001			
(S) Signed by President	03/10/2001			
(S) Returned from Enrolling	03/09/2001			
(C) Sent to Printing	03/09/2001			
(S) Sent to Enrolling	03/08/2001			
(H) Returned to Senate	03/08/2001			
(H) 3rd Reading Concurred	03/08/2001	<u>100</u>	<u>0</u>	
(H) Scheduled for 3rd Reading	03/08/2001			
(H) 2nd Reading Concurred	03/07/2001	<u>99</u>	<u>0</u>	
(H) Scheduled for 2nd Reading	03/07/2001			
(H) Scheduled for 2nd Reading	03/06/2001			
(H) Scheduled for 2nd Reading	03/05/2001			
(H) <u>Committee Report--Bill Concurred</u>	03/02/2001			(H) State Administration
(H) Committee Executive Action--Bill Concurred	03/02/2001	18	0	(H) State Administration
(H) <u>Hearing</u>	03/01/2001			(H) State Administration
(H) Referred to Committee	02/01/2001			(H) State Administration
(H) First Reading	01/26/2001			
(S) Transmitted to House	01/25/2001			
(S) 3rd Reading Passed	01/25/2001	<u>50</u>	<u>0</u>	
(S) Scheduled for 3rd Reading	01/25/2001			
(S) 2nd Reading Passed on Voice Vote	01/24/2001	50	0	
(S) Scheduled for 2nd Reading	01/24/2001			
(S) Scheduled for 2nd Reading	01/23/2001			
(S) Committee Report--Bill Passed as Amended	01/20/2001			(S) State Administration
(S) Committee Executive Action--Bill Passed as Amended	01/20/2001	8	0	(S) State Administration
(S) <u>Hearing</u>	01/17/2001			(S) State

				Administration
(C) Introduced Bill Text Available Electronically	01/08/2001			
(S) Referred to Committee	01/08/2001			(S) State Administration
(S) First Reading	01/08/2001			
(S) Introduced	01/08/2001			
(C) Draft Delivered to Requester	01/08/2001			
(C) Draft Ready for Delivery	01/04/2001			
(C) Draft in Assembly/Executive Director Review	01/03/2001			
(C) Draft in Final Drafter Review	01/02/2001			
(C) Bill Draft Text Available Electronically	01/02/2001			
(C) Draft in Input/Proofing	01/02/2001			
(C) Draft to Drafter - Edit Review [CAJ]	01/02/2001			
(C) Draft in Edit	01/02/2001			
(C) Draft in Legal Review	01/02/2001			
(C) Draft to Requester for Review	12/13/2000			
(C) Draft Request Received	12/04/2000			

SENATE BILL NO. 205
INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ETHICS; REVISING AND CLARIFYING THE PROHIBITIONS ON POLITICAL ACTIVITY; CLARIFYING THE ENFORCEMENT AUTHORITY OF THE COMMISSIONER OF POLITICAL PRACTICES; CLARIFYING THE PROCEDURE FOR HANDLING AN ETHICS COMPLAINT; PROVIDING FOR JUDICIAL REVIEW OF ETHICS DECISIONS; ELIMINATING THE ETHICS COMMISSION; PROVIDING A PROCEDURE FOR A COMPLAINT INVOLVING A COUNTY ATTORNEY; AMENDING SECTIONS 2-2-102, 2-2-103, 2-2-121, 2-2-136, AND 2-2-144, MCA; AND REPEALING SECTIONS 2-2-125, 2-2-137, 2-2-138, 2-2-139, 2-2-142, AND 2-2-143, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-102, MCA, is amended to read:

"2-2-102. Definitions. As used in this part, the following definitions apply:

(1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.

(3) (a) "Gift of substantial value" means a gift with a value of \$50 or more for an individual.

(b) The term does not include:

(i) a gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax purposes;

(ii) food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the public officer's

or public employee's office or employment or when the officer or employee is in attendance in an official capacity;

(iii) educational material directly related to official governmental duties;

(iv) an award publicly presented in recognition of public service; or

(v) educational activity that:

(A) does not place or appear to place the recipient under obligation;

(B) clearly serves the public good; and

(C) is not lavish or extravagant.

(4) "Local government" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.

~~——(4)(5)~~ "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

~~——(5)(6)~~ "Private interest" means an interest held by an individual that is:

(a) an ownership interest in a business;

(b) a creditor interest in an insolvent business;

(c) an employment or prospective employment for which negotiations have begun;

(d) an ownership interest in real property;

(e) a loan or other debtor interest; or

(f) a directorship or officership in a business.

~~——(6)(7)~~ "Public employee" means:

(a) any temporary or permanent employee of the state ~~or any subdivision of the state;~~

(b) any temporary or permanent employee of a local government;

~~——(b)(c)~~ a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and

~~——(c)(d)~~ a person under contract to the state.

~~——(7)(8)~~ "Public officer" includes any state officer and any elected officer of a local government. The term ~~includes an elected officer of any subdivision of the state.~~

(9) "Special district" means a unit of local government, authorized by law to perform a single function or a limited number of functions. The term includes but is not limited to conservation districts, water districts, weed management districts, irrigation districts, fire districts, community college districts, hospital districts, sewer districts, and transportation districts. The term also includes any district or other entity formed by interlocal agreement.

~~——(8)~~ (10) (a) "State agency" includes:

- (i) the state;
- (ii) the legislature and its committees;
- (iii) all executive departments, boards, commissions, committees, bureaus, and offices;
- (iv) the university system; and
- (v) all independent commissions and other establishments of the state government.

(b) The term does not include the judicial branch.

~~——(9)~~ (11) "State officer" includes all elected officers and directors of the executive branch of state government as defined in 2-15-102."

Section 2. Section 2-2-103, MCA, is amended to read:

"2-2-103. Public trust -- public duty. (1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.

(2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

(3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.

(4) (a) The enforcement of this part for:

(i) state officers, legislators, and state employees is provided for in 2-2-136 and ~~2-2-137~~;

(ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136 and ~~2-2-137~~;

(iii) local government officers and employees is provided for in 2-2-144.

(b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government."

Section 3. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the

officer's or employee's supervisor and department director.

(3) (a) A public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds for any campaign activity persuading or affecting a political decision to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

———(a)(i) authorized by law; or

———(b)(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public official officer, the official's officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations.

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(4) A state public officer or public employee may not participate in a proceeding when an organization of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing ~~state~~ agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(5) A ~~state~~ public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization of which the public officer or public employee is a member while performing the public officer's or public employee's job duties. The provisions of this

subsection do not prohibit ~~an~~ a public officer or public employee from performing charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized by law.

(6) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131.

(7) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time public employee.

~~(8) A person who purposely or knowingly violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50 or more than \$1,000, by imprisonment in the county jail for not more than 6 months, or by both. A civil proceeding under 2-2-136 or 2-2-144 does not preclude an action under this subsection. Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act."~~

Section 4. Section 2-2-136, MCA, is amended to read:

"2-2-136. Enforcement for state officers, legislators, and state employees -- referral of complaint involving county attorney. (1) (a) A person alleging a violation of this part by a state officer, legislator, or state employee may file a complaint with the commissioner of political practices. The commissioner does not have jurisdiction for a complaint concerning a legislator if a legislative act is involved in the complaint. The commissioner also has jurisdiction over complaints against a county attorney that are referred by a local government review panel pursuant to 2-2-144. The commissioner ~~shall~~ may request ~~any~~ additional information ~~necessary to make a determination~~ from the complainant or the person who is the subject of the complaint ~~and may issue subpoenas to make an initial determination of whether the complaint states a potential violation of~~

this part.

(b) The commissioner may dismiss a complaint that is frivolous, does not state a potential violation of this part, or does not contain sufficient allegations to enable the commissioner to determine whether the complaint states a potential violation of this part. If the issues presented in a complaint have been addressed and decided in a prior decision and the commissioner determines that no additional factual development is necessary, the commissioner may issue a summary decision without holding an informal contested case hearing on the complaint.

~~----- (b)(c) Unless the complaint is referred to the county attorney under subsection (1)(c)~~ Except as provided in subsection (1)(b), if the commissioner determines that the complaint states a potential violation of this part, the commissioner shall hold an informal contested case hearing on the complaint as provided in Title 2, chapter 4, part 6. The commissioner shall issue a decision based upon the record established before the commissioner.

~~----- (c) If it appears to the commissioner that a complaint alleges criminal conduct, the commissioner shall stay the proceedings under this section and refer the matter to the appropriate county attorney.~~

(2) If the commissioner determines that a violation of this part has occurred, the commissioner may impose an administrative penalty of not less than \$50 or more than \$1,000, and if the violation was committed by a state employee, the commissioner may also recommend that the employing state agency discipline the employee. The employing entity of a state employee may take disciplinary action against an employee for a violation of this part, regardless of whether the commissioner makes a recommendation for discipline. The commissioner may assess the costs of the proceeding against the person bringing the charges if the commissioner determines that a violation did not occur or against the officer or employee if the commissioner determines that a violation did occur.

~~(3) The decision of the commissioner may be appealed to the ethics commission as provided in 2-2-137.~~ A party may seek judicial review of the commissioner's decision, as provided in chapter 4, part 7, of this title, after a

hearing, a dismissal, or a summary decision issued pursuant to subsection (1)(b).

(4) Except for records made public in the course of a hearing held under subsection (1) and records that are open for public inspection pursuant to Montana law, a complaint and records obtained or prepared by the commissioner in connection with an investigation or complaint are confidential documents and are not open for public inspection. The complainant and the person who is the subject of the complaint shall maintain the confidentiality of the complaint and any related documents released to the parties by the commissioner until the commissioner issues a decision. However, the person who is the subject of a complaint may waive, in writing, the right of confidentiality provided in this subsection. If a waiver is filed with the commissioner, the complaint and any related documents must be open for public inspection. The commissioner's decision issued after a hearing is a public record open to inspection.

(5) When a complaint is filed, the commissioner may issue statements or respond to inquiries to confirm that a complaint has been filed, to identify against whom it has been filed, and to describe the procedural aspects and status of the case.

~~—(5)(6)~~ The commissioner may adopt rules to carry out the responsibilities and duties assigned by this part."

Section 5. Section 2-2-144, MCA, is amended to read:

"2-2-144. Enforcement for local government. (1) Except as provided in ~~subsection~~ subsections (5) and (6), a person alleging a violation of this part by a local government officer or local government employee shall notify the county attorney of the county where the local government is located. The county attorney shall request from the complainant or the person who is the subject of the complaint any information necessary to make a determination concerning the validity of the complaint.

(2) If the county attorney determines that the complaint is justified, the county attorney may bring an action in district court seeking a civil fine of not less than \$50 or more than \$1,000. If the county attorney determines that the

complaint alleges a criminal violation, the county attorney shall bring criminal charges against the officer or employee.

(3) If the county attorney declines to bring an action under this section, the person alleging a violation of this part may file a civil action in district court seeking a civil fine of not less than \$50 or more than \$1,000. In an action filed under this subsection, the court may assess the costs and attorney fees against the person bringing the charges if the court determines that a violation did not occur or against the officer or employee if the court determines that a violation did occur. The court may impose sanctions if the court determines that the action was frivolous or intended for harassment.

(4) The employing entity of a local government employee may take disciplinary action against an employee for a violation of this part.

(5) (a) A local government may establish a three-member panel to review complaints alleging violations of this part by officers or employees of the local government. The local government shall establish procedures and rules for the panel. The members of the panel may not be officers or employees of the local government. The panel shall review complaints and may refer to the county attorney complaints that appear to be substantiated.

(b) In a local government that establishes a panel under this subsection (5), a complaint must be referred to the panel prior to making a complaint to the county attorney.

~~(6) For purposes of this section, "local government" means a county, an incorporated city or town, a consolidated government, or a school district. If a local review panel has not been established pursuant to subsection (5), a person alleging a violation of this part by a county attorney shall file the complaint with the commissioner of political practices pursuant to 2-2-136."~~

NEW SECTION. **Section 6. Repealer.** Sections 2-2-125, 2-2-137, 2-2-138, 2-2-139, 2-2-142, and 2-2-143, MCA, are repealed.

- END -

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN DON HARGROVE**, on January 17, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 185, SB 205, ✓ SB 235,
1/10/2001
Executive Action: SB 184, SB 49, SB 235

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SB 235

Sponsor: SEN. VICKI COCCHIARELLA, SD 32, Missoula

Proponents: Tom Schneider, Montana Public Employees Association
Kelly Jenkins, General Counsel for Public Employees Retirement Board
Tom Bilodeau, Montana Education Association

HEARING ON SB 205

Sponsor: SEN. JOHN COBB, SD 25, Augusta

Proponents: Linda Vaughey, Commissioner of Political Practices
Jack Holstrom, Montana Association of Counties

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, opened SB 205 4 EXHIBIT(sts13a04) by explaining ethics statutes.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Proponents' Testimony:

Linda Vaughey, Commissioner of Political Practices, said the ethics statutes should be a road map for people who want to do the right thing. She said the amendments try to address the differences between local government and state government and what coalitions apply to the tri-unity of government. She said her office was seeking to eliminate the Ethics Commission because the Ethics Commission had never existed. Ms. Vaughey said the Ethics Commission was probably implanted from some other state.

Jack Holstrom, Montana Association of Counties, said he has gotten many questions regarding the Code of Ethics. In 1995, there was a compilation of several Ethics laws which attempted to put all of those laws in one particular place so that the elected officials and employees would know what was prohibited conduct and what was permissible. He said in doing so, some confusion was created. The purpose of the amendments in SB 205 was to clarify that the Code of Ethics laws apply to all areas of government.

Roberta Cross Guns, Common Cause, stated this bill was well thought out and well written. She urged support for this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HARGROVE asked Mr. Shire if a candidate had a problem with an opponent and reported that to the Commissioner of Political Practices, then sent out a letter to the public saying what the opponent was doing and that they had reported it to the Commissioner of Political Practices, would that be legal? Mr.

Shire responded that under the current law, the complaint would be confidential.

SEN. BOHLINGER told **Mr. Shire** he was concerned about the elimination of the decriminalization of the ethics statute. He asked if there might be incidence where it would be necessary to have that as a provision for prosecution as opposed to just civil penalties? **Mr. Shire** responded that there was an official misconduct statute that criminalizes certain activities of public officials and employees.

Closing by Sponsor:

SEN. JOHN COBB, SD 25, closed SB 205.

EXECUTIVE ACTION ON SB 184

Motion/Vote: **SEN. EKEGREN** moved that SB 184 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 49

Motion/Vote: **SEN. FRANKLIN** moved that SB 49 DO PASS.

Discussion: **SEN. TOOLE** said this bill frustrated him because he did not feel they got to the real problem.

SEN. BUTCHER said he opposed this bill because it's more bureaucracy. Why add more laws and rules if there was not going to be some sort of substantial improvement? he asked.

Motion: **SEN. BUTCHER** moved that SB 49 BE TABLED.

SEN. TOOLE said he felt there needed to be more discussion first.

Motion: **SEN. BUTCHER** withdrew motion that SB 40 BE TABLED.

SEN. BOHLINGER said he supported **SEN. DOHERTY's** effort in this bill to provide a mechanism that will require candidate's to certify that what they say is true. He said the people of Montana are sickened by ugly campaigns that have taken place. He hoped this would eliminate some of the smear tactics.

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on January 19, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 112, 1/20/2001
Executive Action: SB227, SB228, SB185,
SB205, SB183, SB123, SB51,

HEARING ON HB 112

Sponsor: REPRESENTATIVE JOHN BRUEGGEMAN, HD 74, Polson

Proponents: Dal Smilie, Department of Administration,
Lynn Keller, Sec. of State Office,
Pam Bucy, Department of Justice,
Ann Hedges, Montana Environmental Information Center

Opponents: None

SEN. BUTCHER said he is concerned about future funding for this bill because of more people taking out from this fund than are contributing money to the account.

SEN. BOHLINGER said after twenty years of employment, the problems can be wearing on the individual. He, therefore, supports this bill.

SEN. DON HARGROVE stated because of the risk and levels of physical activity required, the positions of public safety offices such as highway patrol and police need to be younger. This bill is a retention and recruitment tool. If we can keep people in the position longer, it decreases the costs for training.

Vote: Motion SB 228 carried unanimously.

EXECUTIVE ACTION ON SB 185

Motion: SEN. BOHLINGER moved that SB 185 DO PASS.

SEN. TOOLE said this bill aids with criminality versus civil law.

SEN. HARGROVE said this bill would help with criminality versus civil law and it was a good idea.

SEN. BOHLINGER said he is concerned about the repeal of Section 18.

Vote: Motion SB 185 carried unanimously.

EXECUTIVE ACTION ON SB 205

Motion: SEN. FRANKLIN moved that AMENDMENTS~~SB020502.adn~~ BE ADOPTED. EXHIBIT(sts15a04)

David Niss said the intent of this amendment is to deal only with the situation which an ethics complaint is made against a county attorney. The county attorney is a member of the local review panel and would be active on a complaint involving himself. There are also some counties where the panels don't exist.

Vote: Motion AMENDMENT SB020502.ADN carried unanimously.

Motion: SEN. TOOLE moved that SB 205 DO PASS AS AMENDED.

SEN. TOOLE asked if candidates are prohibited from placing signs of advertisements? Jim Stipich said the intent in this bill is to prohibit the use of public funds to campaign for someone, but yes, individual candidates can still express their personal political candidates. SEN. TOOLE said he is concerned about confidentiality of a complaint filed.

SEN. HARGROVE repeated a quote "Ethics is different than the rough and tumble finance laws." He said an ethics statute was passed in 1995. He was listed as a sponsor on that bill, yet voted against it.

Vote: Motion that SB 205 (SB020502.ADN) DO PASS AS AMENDED carried unanimously.

EXECUTIVE ACTION ON SB 183

David Niss, Legislative Services, said this bill does two things: 1) it changes the provision of the bill introduced that says the candidate who was opposed by someone spending their own money could spend money up to that amount from any source. This amendment (SB018302.and) changes the language to say except for a corporation. The amendments lift the threshold of amount to a \$16,000 threshold for governor, Lt. Governor, other candidates on the state-wide basis, PSC, and district judge positions. For all other candidates, it leaves the threshold at \$5,000 as in the introduced bill.

Motion/Vote: SEN. FRANKLIN moved that SB 183(SB018302.ADN)EXHIBIT(sts15a05) BE AMENDED. Motion passed 6-1 with Elliott voting no.

Motion: SEN. TOOLE moved that SB 183 DO PASS AS AMENDED.

SEN. BUTCHER said this bill won't accomplish what they want it to; he is therefore opposed to this bill.

SEN. ELLIOTT commented on the hand-out from Commissioner Linda Vougey. EXHIBIT(sts15a03) He said he opposes this bill.

SEN. TOOLE said this bill will not solve the problem it is trying to solve.

Vote: Motion SB 183 failed unanimously.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 1, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 184, SB 185, SB 205,
2/22/2001
Executive Action: HB 122

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day, however if you are home on the weekend even if you are a public officer you are not going to get a violation. **REPRESENTATIVE OLSON** asked if a legislature is prohibited under this bill to send out a letter addressing a particular ballot issue on legislative letterhead. **Jim Shire** replied if it were done on the job or at the place of employment it would be okay.

REPRESENTATIVE SCHRUMPF asked if there were a lot of violations this year due to new candidates and so many reports needing to be filed. **Linda Vaughey** said she did not think there were anymore this year than last.

CHAIRMAN WALTERS asked if there was a need for the original signed documents if it was faxed to the commission. **Linda Vaughey** said they ask for a signed original to follow the faxed copy. The reason is because sometimes the fax is not clear and difficult to read, so having the original is helpful. **CHAIRMAN WALTERS** then asked if a candidate if fined \$500.00 and does not have the \$500.00 in their account are they personally responsible for that fine. **Linda Vaughey** said they will negotiate a settlement, but they seldom get to this kind of situation.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 23.7}

REPRESENTATIVE COBB stated when the committee takes action on the bill to let him know and he will be there for any other questions the committee may have due to the complexity of the bill.

HEARING ON SB 205

Sponsor: SENATOR JOHN COBB, SD 25, AUGUSTA

Proponents: Linda Vaughey, Commission Of Political Practices
Dulcy Hubbert, Commission Of Political Practices
Jack Halston, Montan Association of Counties
Matthew Leow, Montana Public Interest Research Group

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 25.1}

SENATOR JOHN COBB, SD 25, AUGUSTA submitted and discussed written testimony. EXHIBIT(ssth47a02)

Proponents' Testimony:

{Tape : 2; Side : B; Approx. Time Counter : 8.6}

Linda Vaughey, Commission Of Political Practices stated the ethics laws are completely different than the campaign plan for practices laws. The bill tries to clarify some of the language that has caused the most problems.

Jack Halston, Montan Association of Counties said he teaches an ethic class for county commissioners and receives calls on the code of ethics. One of the problems he faces is correctly advising county commissioners. It is not clear that county official and county employees are covered by all sections in the new code of ethics.

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 14.9}

REPRESENTATIVE DELL asked what kind of authority does this bill provide for a local ethics committee. Linda Vaughey replied it does not impact the ability of the local government to create an ethics panel. Local government has the authority to police the ethics.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0}

REPRESENTATIVE COBB said this bill is just trying to clarify things because it is a never ending process and some people are trying to do wrong, but most are trying to do good. The big issue on the school board elections are what can and cannot be done with a school board. This bill clarifies that.

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MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 2, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: Rep. Douglas Mood (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 90, 2/22/2001; SB 228,
2/22/2001

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difference when they leave the state borders.

REPRESENTATIVE LEE asked if this only applies 1.6% of the time in the state contracts, how can you say businesses go out of state and are able to get other state contracts. Sheryl Olson said the reason why it only happens 1.6% of the time is because they cannot apply preference anytime any federal dollars are involved.

REPRESENTATIVE LEE commented the whole thing makes absolutely no sense for companies who can't get their own state contracts yet they are able to go out of state and get other contracts.

REPRESENTATIVE SMITH asked if the reason Fish & Game gets all there printing done out of state is because it is federal money. Sheryl Olson said Montana printers get a 8% preference and even with that preference they are not low enough to receive the contract.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 10.3}

SENATOR EKEGREN submitted information on a Review of the Montana State Contracting Laws and Procedures **EXHIBIT**(sth48a06) and a copy of a Special Member Ballot on eliminating the current bidder preference. **EXHIBIT**(sth48a07)

EXECUTIVE ACTION ON SB 205

{Tape : 2; Side : A; Approx. Time Counter : 14.2}

Motion: REP. MASOLO moved that SB 205 BE CONCURRED IN.

Discussion:

REPRESENTATIVE DELL commented this is a good solid bill. Having served on the ethics committee the past two sessions, he felt there needed to be clarification.

REPRESENTATIVE MASOLO stated this bill will help clarify things and thinks it is a good law.

REPRESENTATIVE SCHRUMPF said this will clarify things and make it simpler, because if they don't do something no one will have a treasurer.

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REPRESENTATIVE LENHART commented he knew of one person who understood all the reports he had to send in.

Motion/Vote: REP. MASOLO moved that SB 204 BE CONCURRED IN. Motion carried unanimously. 18-0

ADJOURNMENT

Adjournment: 9:25 A.M.